



# HAWAI‘I CIVIL RIGHTS COMMISSION

## ASSISTANCE ANIMALS AS A REASONABLE ACCOMMODATION IN HOUSING

### WHAT IS A “REASONABLE ACCOMMODATION”?

Hawai‘i law\* and the federal Fair Housing Act\*\* require housing providers to make reasonable accommodations in rules, policies, practices, or services when such accommodations are necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling. A requested accommodation is necessary if it is related to the person’s disability and ameliorates the effects of a disability to allow the person equal use and enjoyment of the dwelling.

A person with a disability may request the use of an assistance animal as a reasonable accommodation. Such an accommodation may involve making an exception to a “no pets” or “no animals” rule.

### WHO IS A PERSON WITH A DISABILITY?

A person with a disability is an individual who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such an impairment, including persons who have HIV or AIDS. The term does not include current use of or addiction to a controlled substance, or alcohol or drug abuse that threatens the property or safety of others. Reasonable accommodations are not required for individuals who are solely regarded as having an impairment.

“Physical or mental impairment” includes, but is not limited to, such conditions, diseases, and infections, such as: orthopedic, visual, speech and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; AIDS and HIV infections or seropositivity; cancer; heart disease; diabetes; alcoholism; mental retardation; emotional illness; specific learning disabilities; developmental disabilities; and manic depression.

### WHAT IS AN ASSISTANCE ANIMAL?

Assistance animals are not pets. They are animals that work, provide assistance, or perform tasks for the benefit of a person with a disability. They can also be animals that provide emotional support that alleviates one or more symptoms or effects of a person’s disability.

“Assistance animals” is a broad term that includes “service animals”, “support animals”, “therapy animals”, and “comfort animals”. These animals can perform many disability related functions, including but not limited to: guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing to sounds, pulling a wheelchair, fetching items, alerting persons to impending seizures, or providing emotional support or comfort.

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\* Hawai‘i Revised Statutes (H.R.S) § 515-3(11) and Hawai‘i Administrative Rules (H.A.R) § 12-46-306(a)(3).

\*\* 42 U.S.C. §§ 3601 – 3619.

## **DOES AN ASSISTANCE ANIMAL NEED TO BE CERTIFIED OR FORMALLY TRAINED?**

No. There is no federal, state, or county certification for assistance animals. Some, but not all, assistance animals are formally trained. Other assistance animals are trained by their owners, and in some cases no special training is required. For example, emotional support animals by their very nature, and without training, may relieve depression or anxiety, or help reduce stress-induced pain in persons with certain medical conditions affected by stress.

## **WHAT SHOULD A HOUSING PROVIDER DO WHEN A PERSON REQUESTS THE USE OF AN ASSISTANCE ANIMAL AS A REASONABLE ACCOMMODATION?**

Once a person makes a request for an assistance animal as an accommodation, the housing provider must engage in an interactive process with that person to determine if the accommodation can be made. In the interactive process, the housing provider may:

- 1) Request information necessary to establish that the person is disabled, if the disability is not apparent.
- 2) Request information to establish the need for the use of the assistance animal to afford the person equal use and enjoyment of the housing (i.e., the nexus between the use of the animal and the disability). A doctor's note containing this information is generally adequate, although not always required. The housing provider may not demand detailed medical records or information. For a companion or support animal, any of the following are sufficient: a note from the person's treating physician, psychiatrist, psychologist, other mental health professional, or social worker to establish that the animal provides support and alleviates at least one of the symptoms or effects of the person's disability.
- 3) Deny the request if the use of a particular assistance animal poses a direct threat to the health or safety of others or results in actual (not speculative) damage to the property, unless the damage can be eliminated or substantially reduced. Denial of the use of a particular animal does not preclude a request to use a different animal.
- 4) Deny the request if the use of the assistance animal poses an undue financial and administrative burden, or fundamentally alters the nature of the housing provider's operation.

## **CAN REASONABLE RESTRICTIONS BE ESTABLISHED ON THE USE OF AN ASSISTANCE ANIMAL?**

Yes. Housing providers may establish reasonable restrictions on the use of an assistance animal. Examples of reasonable restrictions are:

- 1) Having the animal licensed with the county, if licensing is required by the county.
- 2) Having the animal vaccinated, with documentation of the vaccination.
- 3) Having the animal registered with the housing provider.
- 4) Having the animal meet minimum sanitary standards.
- 5) Requiring pick up of solid waste.
- 6) Having the animal under the control of its handler by use of a harness, leash, tether, cage or other physical control. If the nature of the person's disability makes physical control impracticable, or if physical control would interfere with the assistance that the animal provides, the housing provider may require that the animal be otherwise under the control of its handler, by voice control, signals, or other effective means.
- 7) Having the person assume responsibility for damages caused by the animal. However, because assistance animals are not "pets", they may not be subject to deposits, fees, or surcharges imposed on pet owners.
- 8) Having the person clean the dwelling upon vacating, by fumigation, deodorizing, professional carpet cleaning, or other appropriate methods, at his or her expense.